

The opinion in support of the decision being entered today is not binding precedent of the Board.

Paper 17

Filed by: Trial Section Merits Panel  
Box Interference  
Washington, D.C. 20231  
Tel: 703-308-9797  
Fax: 703-305-0942

Filed: May 2, 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

IZUMU SAITO, YUMI KANEGAE  
and MICHIO NAKAI

MAILED

Junior Party,  
Patent 5,700,470

MAY 2 - 2002

v.

PAT. & T.M. OFFICE  
BOARD OF PATENT APPEALS  
AND INTERFERENCES

QING WANG, MITCHELL H. FINER  
and XIAO-CHI JIA

Senior Party  
Application 08/333,680

Patent Interference No. 104,755 (CAS)

Before: SCHAFER, TORCZON and SPIEGEL, Administrative Patent Judges.

SPIEGEL, Administrative Patent Judge.

**JUDGMENT PURSUANT TO 37 CFR § 1.662(a)**

"Pursuant to 37 C.F.R. § 1.662(a), the party Saito hereby abandons the contest as to Count 1 and claims 1-6 corresponding thereto" (Paper 15). Therefore, it is

ORDERED that judgment on priority as to Count 1 (Paper 1, p. 5), the sole count

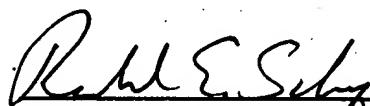
in the interference, is awarded against junior party IZUMU SAITO, YUMI KANEKAE and MICHIO NAKAI;

FURTHER ORDERED that junior party IZUMU SAITO, YUMI KANEKAE and MICHIO NAKAI is not entitled to a patent containing claims 1-6 (corresponding to Count 1) of Saito U.S. Patent 5,700,470, issued December 23, 1997, based on application 08/615,048, filed March 12, 1996;

FURTHER ORDERED that a copy of this paper shall be made of record in files of U.S. Patent 5,700,470 and U.S. application 08/333,680;

FURTHER ORDERED that if there is a settlement agreement which has not been filed, attention is directed to 35 U.S.C. § 135(c) and 37 CFR § 1.661; and

FURTHER ORDERED that the telephone conference call scheduled for May 2, 2002 is cancelled.

  
RICHARD E. SCHAEFER  
Administrative Patent Judge

  
RICHARD TORCZON  
Administrative Patent Judge

BOARD OF PATENT  
APPEALS AND  
INTERFERENCES

  
CAROL A. SPIEGEL  
Administrative Patent Judge

cc: (via Fax and Federal Express)

Saito  
(real party in interest  
SUMITOMO PHARMACEUTICALS COMPANY LIMITED):

J. Frank Osha, Esq.  
John T. Callahan, Esq.  
SUGHRUE MION, PLLC  
2100 Pennsylvania Ave., N.W.  
Suite 800  
Washington, DC 20037-3202  
Tel: 202-293-7060  
Fax: 202-293-7860  
E-mail: fosha@sughrue.com  
jcallahan@sughrue.com

Wang  
(real party in interest  
CELL GENESYS, INC.):

Steven B. Kelber, Esq.  
PIPER MARBURY RUDNICK & WOLFE LLP  
1200 Nineteenth Street, N.W.  
Washington, DC 20036-2430  
Tel: 202-861-3900  
Fax: 202-223-2085  
E-mail: steven.kelber@piperrudnick.com

Linda R. Judge, Esq.  
CELL GENESYS, INC.  
342 Lakeside Drive  
Foster City, CA 94404  
Tel: 650-425-4650  
Fax: 650-349-7392  
E-mail: linda.judge@cellgenesys.com